

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STEVEN M. SHERMAN,

08 CV 4248 (KMK)

Plaintiff,

-against-

ANSWER

TOWN OF CHESTER, THE TOWN BOARD,
WILLIAM TULLY, EDWIN J. GARLING, LESLIE
DOTSON, and GARLING ASSOCIATES,

Defendants.
-----X

Defendants TOWN OF CHESTER, THE TOWN BOARD and WILLIAM TULLY, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE VERVENIOTIS LLP, hereby answer plaintiffs' complaint, upon information and belief, as follows.

1. Deny the allegations contained in paragraph "INTRODUCTORY STATEMENT" of the complaint, except admit that plaintiff purports to bring this action as stated therein.
2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the complaint.
3. Admit the allegations contained in paragraph "2" of the complaint.
4. Admit the allegations contained in paragraph "3" of the complaint.
5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the complaint, except admit that William Tully is a resident of the Town of Chester, County of Orange, State of New York, and the Town's former Supervisor.
6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of the complaint.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “6” of the complaint.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “7” of the complaint.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “8” of the complaint.

10. Deny the allegations contained in paragraph “9” of the complaint, except admit that plaintiff purports to assert jurisdiction as set forth therein.

11. Deny the allegations contained in paragraph “10” of the complaint, except admit that plaintiff asserts that venue is proper.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “11” of the complaint.

13. Deny the allegations contained in paragraph “12” of the complaint.

14. Admit the allegations contained in paragraph “13” of the complaint.

15. Deny the allegations contained in paragraph “14” of the complaint.

16. Deny the allegations contained in paragraph “15” of the complaint.

17. Deny the allegations contained in paragraph “16” of the complaint.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “17” of the complaint.

19. Deny the allegations contained in paragraph “18” of the complaint.

20. Deny the allegations contained in paragraph “19” of the complaint.

21. Deny the allegations contained in paragraph “20” of the complaint.

22. Deny the allegations contained in paragraph “21” of the complaint.

23. Deny the allegations contained in paragraph “22” of the complaint.
24. Deny the allegations contained in paragraph “23” of the complaint.
25. Deny the allegations contained in paragraph “24” of the complaint.
26. Deny the allegations contained in paragraph “25” of the complaint.
27. Deny the allegations contained in paragraph “26” of the complaint.
28. Deny the allegations contained in paragraph “27” of the complaint.
29. Deny the allegations contained in paragraph “28” of the complaint.
30. Deny the allegations contained in paragraph “29” of the complaint.
31. Deny the allegations contained in paragraph “30” of the complaint.
32. Deny the allegations contained in paragraph “31” of the complaint.
33. Deny the allegations contained in paragraph “32” of the complaint.
34. Deny the allegations contained in paragraph “33” of the complaint.
35. Deny the allegations contained in paragraph “34” of the complaint.
36. Deny the allegations contained in paragraph “35” of the complaint.
37. Deny the allegations contained in paragraph “36” of the complaint.
38. Deny the allegations contained in paragraph “37” of the complaint.
39. Deny the allegations contained in paragraph “38” of the complaint, except admit that the moratorium was not for an unlawful purpose.
40. Deny the allegations contained in paragraph “39” of the complaint.
41. Deny the allegations contained in paragraph “40” of the complaint, except admit that the Town adopted a Comprehensive Plan.
42. Deny the allegations contained in paragraph “41” of the complaint and respectfully refer all questions of law to the Court for adjudication.

43. Deny the allegations contained in paragraph “42” of the complaint.
44. Deny the allegations contained in paragraph “43” of the complaint.
45. Deny the allegations contained in paragraph “44” of the complaint.
46. Deny the allegations contained in paragraph “45” of the complaint.
47. Deny the allegations contained in paragraph “46” of the complaint.
48. Deny the allegations contained in paragraph “47” of the complaint.
49. Deny the allegations contained in paragraph “48” of the complaint.
50. Deny the allegations contained in paragraph “49” of the complaint.
51. Deny the allegations contained in paragraph “50” of the complaint.
52. Deny the allegations contained in paragraph “51” of the complaint.
53. Deny the allegations contained in paragraph “52” of the complaint.
54. Deny the allegations contained in paragraph “53” of the complaint.
55. Deny the allegations contained in paragraph “54” of the complaint.
56. Deny the allegations contained in paragraph “55” of the complaint.
57. Deny the allegations contained in paragraph “56” of the complaint.
58. Deny the allegations contained in paragraph “57” of the complaint.
59. Deny the allegations contained in paragraph “58” of the complaint.
60. Deny the allegations contained in paragraph “59” of the complaint.
61. Deny the allegations contained in paragraph “60” of the complaint.
62. Deny the allegations contained in paragraph “61” of the complaint.
63. Deny the allegations contained in paragraph “62” of the complaint.
64. Deny the allegations contained in paragraph “63” of the complaint.
65. Deny the allegations contained in paragraph “64” of the complaint.

66. Deny the allegations contained in paragraph “65” of the complaint.
67. Deny the allegations contained in paragraph “66” of the complaint.
68. Deny the allegations contained in paragraph “67” of the complaint.
69. Deny the allegations contained in paragraph “68” of the complaint.
70. Deny the allegations contained in paragraph “69” of the complaint.
71. Deny the allegations contained in paragraph “70” of the complaint.
72. Deny the allegations contained in paragraph “71” of the complaint.
73. Deny the allegations contained in paragraph “72” of the complaint.
74. Deny the allegations contained in paragraph “73” of the complaint.
75. Deny the allegations contained in paragraph “74” of the complaint.
76. Deny the allegations contained in paragraph “75” of the complaint.
77. Deny the allegations contained in paragraph “76” of the complaint.
78. Deny the allegations contained in paragraph “77” of the complaint.
79. Deny the allegations contained in paragraph “78” of the complaint.
80. Deny the allegations contained in paragraph “79” of the complaint.
81. Deny the allegations contained in paragraph “80” of the complaint.
82. Deny the allegations contained in paragraph “81” of the complaint.
83. Deny the allegations contained in paragraph “82” of the complaint.
84. Deny the allegations contained in paragraph “83” of the complaint.
85. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “84” of the complaint.
86. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “85” of the complaint.

87. Deny the allegations contained in paragraph “86” of the complaint.

88. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “87” of the complaint.

89. Deny the allegations contained in paragraph “88” of the complaint.

90. Deny the allegations contained in paragraph “89” of the complaint.

91. Deny the allegations contained in paragraph “90” of the complaint.

92. Deny the allegations contained in paragraph “91” of the complaint.

93. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “92” of the complaint.

94. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “93” of the complaint.

95. Deny the allegations contained in paragraph “94” of the complaint.

96. Deny the allegations contained in paragraph “95” of the complaint.

97. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “96” of the complaint.

98. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “97” of the complaint.

99. Deny the allegations contained in paragraph “98” of the complaint.

100. Deny the allegations contained in paragraph “99” of the complaint.

101. Deny the allegations contained in paragraph “100” of the complaint.

102. Deny the allegations contained in paragraph “101” of the complaint.

103. Deny the allegations contained in paragraph “102” of the complaint.

104. Deny the allegations contained in paragraph “103” of the complaint.

105. Deny the allegations contained in paragraph “104” of the complaint.
106. Deny the allegations contained in paragraph “105” of the complaint.
107. Deny the allegations contained in paragraph “106” of the complaint.
108. Deny the allegations contained in paragraph “107” of the complaint.
109. Deny the allegations contained in paragraph “108” of the complaint.
110. Deny the allegations contained in paragraph “109” of the complaint.
111. Deny the allegations contained in paragraph “110” of the complaint.
112. Deny the allegations contained in paragraph “111” of the complaint.
113. Deny the allegations contained in paragraph “112” of the complaint.
114. Deny the allegations contained in paragraph “113” of the complaint, and respectfully refer the Court to the letter for its true and accurate contents.
115. Deny the allegations contained in paragraph “114” of the complaint.
116. Deny the allegations contained in paragraph “115” of the complaint.
117. Deny the allegations contained in paragraph “116” of the complaint.
118. Deny the allegations contained in paragraph “117” of the complaint.
119. Deny the allegations contained in paragraph “118” of the complaint.
120. Deny the allegations contained in paragraph “119” of the complaint.
121. Deny the allegations contained in paragraph “120” of the complaint.
122. Deny the allegations contained in paragraph “121” of the complaint.
123. Deny the allegations contained in paragraph “122” of the complaint.
124. Deny the allegations contained in paragraph “123” of the complaint.
125. Deny the allegations contained in paragraph “124” of the complaint, except admit that plaintiff has not exhausted his administrative remedies.

126. Deny the allegations contained in paragraph “125” of the complaint.
127. Deny the allegations contained in paragraph “126” of the complaint.
128. Deny the allegations contained in paragraph “127” of the complaint.
129. Deny the allegations contained in paragraph “128” of the complaint.
130. Deny the allegations contained in paragraph “129” of the complaint.
131. Deny the allegations contained in paragraph “130” of the complaint, and respectfully refer all questions of law to the Court for adjudication.
132. Deny the allegations contained in paragraph “131” of the complaint.
133. Deny the allegations contained in paragraph “132” of the complaint.
134. Deny the allegations contained in paragraph “133” of the complaint.
135. Deny the allegations contained in paragraph “134” of the complaint.
136. Deny the allegations contained in paragraph “135” of the complaint.
137. Deny the allegations contained in paragraph “136” of the complaint.
138. Deny the allegations contained in paragraph “137” of the complaint.
139. Deny the allegations contained in paragraph “138” of the complaint.
140. Deny the allegations contained in paragraph “139” of the complaint.
141. Deny the allegations contained in paragraph “140” of the complaint.
142. Deny the allegations contained in paragraph “141” of the complaint and all of its sub-parts.
143. Deny the allegations contained in paragraph “142” of the complaint.
144. Deny the allegations contained in paragraph “143” of the complaint.
145. Deny the allegations contained in paragraph “144” of the complaint.
146. Deny the allegations contained in paragraph “145” of the complaint.

147. Deny the allegations contained in paragraph “146” of the complaint.

148. Deny the allegations contained in paragraph “147” of the complaint.

149. Deny the allegations contained in paragraph “148” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

150. Deny the allegations contained in paragraph “149” of the complaint.

151. Deny the allegations contained in paragraph “150” of the complaint.

152. Deny the allegations contained in paragraph “151” of the complaint.

153. Deny the allegations contained in paragraph “152” of the complaint.

154. Deny the allegations contained in paragraph “153” of the complaint.

155. Deny the allegations contained in paragraph “154” of the complaint.

156. Deny the allegations contained in paragraph “155” of the complaint.

157. Deny the allegations contained in paragraph “156” of the complaint.

158. Deny the allegations contained in paragraph “157” of the complaint.

159. Deny the allegations contained in paragraph “158” of the complaint.

160. Deny the allegations contained in paragraph “159” of the complaint.

161. Deny the allegations contained in paragraph “160” of the complaint.

162. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “161” of the complaint.

163. Deny the allegations contained in paragraph “162” of the complaint.

164. Deny the allegations contained in paragraph “163” of the complaint.

165. Deny the allegations contained in paragraph “164” of the complaint.

166. Deny the allegations contained in paragraph “165” of the complaint.

167. Deny the allegations contained in paragraph “166” of the complaint.

168. Deny the allegations contained in paragraph “167” of the complaint.

169. Deny the allegations contained in paragraph “168” of the complaint.

170. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “169” of the complaint.

171. Deny the allegations contained in paragraph “170” of the complaint.

172. Deny the allegations contained in paragraph “171” of the complaint.

173. Deny the allegations contained in paragraph “172” of the complaint.

174. Deny the allegations contained in paragraph “173” of the complaint.

175. Deny the allegations contained in paragraph “174” of the complaint.

176. Deny the allegations contained in paragraph “175” of the complaint, except admit that defendant Tully acted honestly and professionally.

177. Deny the allegations contained in paragraph “176” of the complaint.

178. Deny the allegations contained in paragraph “177” of the complaint.

179. Deny the allegations contained in paragraph “178” of the complaint.

180. Deny the allegations contained in paragraph “179” of the complaint.

181. Deny the allegations contained in paragraph “180” of the complaint.

182. Deny the allegations contained in paragraph “181” of the complaint.

183. Deny the allegations contained in paragraph “182” of the complaint.

184. Deny the allegations contained in paragraph “183” of the complaint.

ANSWERING THE FIRST CLAIM FOR RELIEF

185. As and for a response to paragraph “184” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the

complaint numbered “1” through “183” of the complaint with the same force and effect as if fully set forth at length herein.

186. Deny the allegations contained in paragraph “185” of the complaint.

187. Deny the allegations contained in paragraph “186” of the complaint.

188. Deny the allegations contained in paragraph “187” of the complaint.

189. Deny the allegations contained in paragraph “188” of the complaint.

190. Deny the allegations contained in paragraph “189” of the complaint.

191. Deny the allegations contained in paragraph “190” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

192. Deny the allegations contained in paragraph “191” of the complaint.

193. Deny the allegations contained in paragraph “192” of the complaint.

194. Deny the allegations contained in paragraph “193” of the complaint.

195. Deny the allegations contained in paragraph “194” of the complaint.

ANSWERING THE SECOND CLAIM FOR RELIEF

196. As and for a response to paragraph “195” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “194” of the complaint with the same force and effect as if fully set forth at length herein.

197. Deny the allegations contained in paragraph “196” of the complaint.

198. Deny the allegations contained in paragraph “197” of the complaint.

199. Deny the allegations contained in paragraph “198” of the complaint.

200. Deny the allegations contained in paragraph “199” of the complaint.

201. Deny the allegations contained in paragraph “200” of the complaint.

- 202. Deny the allegations contained in paragraph “201” of the complaint.
- 203. Deny the allegations contained in paragraph “202” of the complaint.
- 204. Deny the allegations contained in paragraph “203” of the complaint.
- 205. Deny the allegations contained in paragraph “204” of the complaint.
- 206. Deny the allegations contained in paragraph “205” of the complaint.
- 207. Deny the allegations contained in paragraph “206” of the complaint.
- 208. Deny the allegations contained in paragraph “207” of the complaint.
- 209. Deny the allegations contained in paragraph “208” of the complaint.
- 210. Deny the allegations contained in paragraph “209” of the complaint.
- 211. Deny the allegations contained in paragraph “210” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

ANSWERING THE THIRD CLAIM FOR RELIEF

212. As and for a response to paragraph “211” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “210” of the complaint with the same force and effect as if fully set forth at length herein.

- 213. Deny the allegations contained in paragraph “212” of the complaint.
- 214. Deny the allegations contained in paragraph “213” of the complaint.
- 215. Deny the allegations contained in paragraph “214” of the complaint.
- 216. Deny the allegations contained in paragraph “215” of the complaint.
- 217. Deny the allegations contained in paragraph “216” of the complaint.
- 218. Deny the allegations contained in paragraph “217” of the complaint.
- 219. Deny the allegations contained in paragraph “218” of the complaint.

220. Deny the allegations contained in paragraph “219” of the complaint.

221. Deny the allegations contained in paragraph “220” of the complaint.

222. Deny the allegations contained in paragraph “221” of the complaint.

223. Deny the allegations contained in paragraph “222” of the complaint.

224. Deny the allegations contained in paragraph “223” of the complaint.

225. Deny the allegations contained in paragraph “224” of the complaint.

226. Deny the allegations contained in paragraph “225” of the complaint.

227. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “226” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

228. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “227” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

229. Deny the allegations contained in paragraph “228” of the complaint.

ANSWERING THE FOURTH CLAIM FOR RELIEF

230. As and for a response to paragraph “229” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “228” of the complaint with the same force and effect as if fully set forth at length herein.

231. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “230” of the complaint, and respectfully refer all question of law to the Court for adjudication.

232. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “231” of the complaint, except state that defendants’ actions have comported with due process requirements.

233. Deny the allegations contained in paragraph “232” of the complaint and all of its sub-parts.

234. Deny the allegations contained in paragraph “233” of the complaint.

235. Deny the allegations contained in paragraph “234” of the complaint.

236. Deny the allegations contained in paragraph “235” of the complaint.

237. Deny the allegations contained in paragraph “236” of the complaint.

238. Deny the allegations contained in paragraph “237” of the complaint.

239. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “238” of the complaint.

240. Deny the allegations contained in paragraph “239” of the complaint.

ANSWERING THE FIFTH CLAIM FOR RELIEF

241. As and for a response to paragraph “240” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “239” of the complaint with the same force and effect as if fully set forth at length herein.

242. Deny the allegations contained in paragraph “241” of the complaint.

243. Deny the allegations contained in paragraph “242” of the complaint.

244. Deny the allegations contained in paragraph “243” of the complaint.

245. Deny the allegations contained in paragraph “244” of the complaint.

246. Deny the allegations contained in paragraph “245” of the complaint and respectfully refer all questions of law to the Court for adjudication.

247. Deny the allegations contained in paragraph “246” of the complaint.

248. Deny the allegations contained in paragraph “247” of the complaint.

ANSWERING THE SIXTH CLAIM FOR RELIEF

249. As and for a response to paragraph “248” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “247” of the complaint with the same force and effect as if fully set forth at length herein.

250. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “249” of the complaint.

251. Deny the allegations contained in paragraph “250” of the complaint.

252. Deny the allegations contained in paragraph “251” of the complaint.

253. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “252” of the complaint.

254. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “253” of the complaint, and respectfully refer all questions of law to the Court for adjudication.

255. Deny the allegations contained in paragraph “254” of the complaint.

256. Deny the allegations contained in paragraph “255” of the complaint.

257. Deny the allegations contained in paragraph “256” of the complaint.

258. Deny the allegations contained in paragraph “257” of the complaint.

259. Deny the allegations contained in paragraph “258” of the complaint.

ANSWERING THE SEVENTH CLAIM FOR RELIEF

260. As and for a response to paragraph “259” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “258” of the complaint with the same force and effect as if fully set forth at length herein.

261. Deny the allegations contained in paragraph “260” of the complaint.

262. Deny the allegations contained in paragraph “261” of the complaint.

263. Deny the allegations contained in paragraph “262” of the complaint.

264. Deny the allegations contained in paragraph “263” of the complaint.

265. Deny the allegations contained in paragraph “264” of the complaint.

266. Deny the allegations contained in paragraph “265” of the complaint.

267. Deny the allegations contained in paragraph “266” of the complaint.

268. Deny the allegations contained in paragraph “267” of the complaint.

269. Deny the allegations contained in paragraph “268” of the complaint.

270. Deny the allegations contained in paragraph “269” of the complaint.

271. Deny the allegations contained in paragraph “270” of the complaint.

ANSWERING THE EIGHTH CLAIM FOR RELIEF

272. As and for a response to paragraph “271” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “270” of the complaint with the same force and effect as if fully set forth at length herein.

273. Deny the allegations contained in paragraph “272” of the complaint.

274. Deny the allegations contained in paragraph “273” of the complaint.

275. Deny the allegations contained in paragraph “274” of the complaint.

276. Deny the allegations contained in paragraph “275” of the complaint.

277. Deny the allegations contained in paragraph “276” of the complaint.

ANSWERING THE NINTH CLAIM FOR RELIEF

278. As and for a response to paragraph “277” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “276” of the complaint with the same force and effect as if fully set forth at length herein.

279. Deny the allegations contained in paragraph “278” of the complaint.

280. Deny the allegations contained in paragraph “279” of the complaint.

281. Deny the allegations contained in paragraph “280” of the complaint.

282. Deny the allegations contained in paragraph “281” of the complaint.

283. Deny the allegations contained in paragraph “282” of the complaint.

284. Deny the allegations contained in paragraph “283” of the complaint.

ANSWERING THE TENTH CLAIM FOR RELIEF

285. As and for a response to paragraph “284” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “283” of the complaint with the same force and effect as if fully set forth at length herein.

286. Deny the allegations contained in paragraph “285” of the complaint.

287. Deny the allegations contained in paragraph “286” of the complaint and all of its sub-parts.

288. Deny the allegations contained in paragraph “287” of the complaint, and respectfully

refer all questions of law to the Court for adjudication.

ANSWERING THE CLAIM FOR DECLARATORY/INJUNCTIVE RELIEF

289. As and for a response to paragraph “288” of the complaint, defendants repeat and reallege the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “287” of the complaint with the same force and effect as if fully set forth at length herein.

290. Deny the allegations contained in paragraph “289” of the complaint.

291. Deny the allegations contained in paragraph “290” of the complaint.

292. Deny the allegations contained in paragraph “291” of the complaint,

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

293. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

294. Plaintiff’s claims are barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

295. Defendants are entitled to absolute immunity from liability.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

296. Defendant Tully is entitled to qualified immunity from liability.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

297. Plaintiff lacks standing, in whole or in part, to assert the claims set forth in the complaint.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

298. Plaintiffs’ claims are not ripe for adjudication.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

299. To the extent that plaintiffs purport to assert any claims under New York State law, plaintiff has failed to comply with the conditions precedent to suit under the General Municipal Law § 50-e and 50-i.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

300. Plaintiff's due process claims are barred by the existence of an adequate post-deprivation remedy.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

301. Plaintiff was not deprived of any cognizable property or liberty interest.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

302. Defendants' policies and practices conform to the requirements of all applicable federal and state laws including, but not limited to 42 U.S.C. § 1983; 42 U.S.C. § 1985; the First Amendment to the United States Constitution; the Fifth Amendment to the United States Constitution; the Fourteenth Amendment to the United States Constitution; the Americans with Disabilities Act; the Fair Housing Act; the Housing for Older Persons Act of 1995; the Religious Land Use and Institutionalized Persons Act; the Racketeering Influenced and Corrupt Organizations Act; and under New York State law; and are administered in a manner that is consistent with defendants' legal obligations.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

303. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any Act of Congress providing for the protection of civil rights.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

304. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct, or the culpable or negligent conduct of third parties, and was not the proximate result of any act of the defendants.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

305. At all times relevant to the acts alleged in the complaint, defendants, their agents and officials, acted reasonably, properly, and in the lawful exercise of their discretion.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

306. Plaintiff was not treated differently than any similarly situated individuals.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

307. Defendants' decisions were supported by a compelling government interest.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

308. Defendants' decisions do not substantially impact religion.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

309. Plaintiff has failed to exhaust his administrative remedies prior to suit.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

310. Plaintiff failed to plead his RICO claim with the requisite particularity.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

311. Municipalities and government employees and officials cannot be held liable under RICO.

WHEREFORE, defendants TOWN OF CHESTER, THE TOWN BOARD and WILLIAM

TULLY, request judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: Mineola, New York
June 30, 2008

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS LLP
Attorneys for Defendants
TOWN OF CHESTER, THE TOWN BOARD
and WILLIAM TULLY

A handwritten signature in black ink, appearing to read "St C. St", written over a horizontal line.

By: _____

STEVEN C. STERN (SS 2573)
240 Mineola Boulevard
Mineola, New York 11501
(516) 741-7676
Our File No. 08-239

TO:
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Attorney for the Plaintiff
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Stony Point, New York 10980
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STEPHEN J. GABA (SG 3160)
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